

ANALYSIS AND FINDINGS FOR CONDITIONAL USE APPROVAL

Major Issues

1. Consider if the intent of the required common open space could include the required setback areas of the open space tracts or if the intent of the PUD is to create additional open space areas outside of the parent parcel setbacks.

Section 40.15.15.6.C lists the criteria in order to approve a Final Planned Unit Development Conditional Use application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

- 1. The proposal satisfies the threshold requirements for a Final PUD application.***

Facts and Findings:

Section 40.15.15.6.A *Threshold: An application for a Conditional Use shall be required when the following threshold applies:*

A Preliminary Planned Unit Development (PUD) application is an optional application process which may be chosen by the applicant. A Preliminary PUD application is the first application of a two-step application process with a Final PUD application as the second step. A Preliminary PUD is a plan that generally demonstrates the ultimate development of a project. A Preliminary PUD may be applied to properties within any City zoning district except Residential-Agricultural (RA).

Section 20.05.15.2.B. identifies Planned Unit Developments (PUD) as a conditional use within the R-7 zoning district. Therefore, the project proposal meets the threshold requirement for a Type Three Conditional Use application. The applicant proposes to create a Planned Unit Development (PUD) with the fifteen-lot subdivision and proposes that the PUD be approved through the Final PUD process as provided by the threshold above.

FINDING: Therefore, staff find that the proposal meets the criterion for approval.

- 2. All City application fees related to the application under consideration by the decision making authority have been submitted.***

Facts and Findings:

The intent of this criterion is to ensure that all fees have been paid to the City before a full review can proceed. According to city finance records, the applicant

paid with a check (#18591) in the amount of \$1,274.00 to the City to have the proposed project review for compliance with the Development Code. The City issued receipt number 20045147 to verify payment.

Therefore, staff find that the proposal meets the criterion for approval.

3. ***The proposal meets the Site Development Requirement for setbacks within the applicable zoning district for the perimeter of the parent parcel unless the setbacks are approved as an Adjustment, Flexible Setback or Variance which shall be considered concurrently with the subject proposal.***

Facts and Findings:

The applicant has applied for a flexible setback in order to reduce the side and rear setback to zero. Development Code Section 60.35.15.2 states that “land required to be set aside as setbacks or buffers shall not be included in the calculation of required open space.” The applicant states that the flexible setback is for the “open space” areas and not for the overall parcel. During the review process, staff has applied the flexible setback to the overall parent parcel and not specifically to the “open space” areas located to the northern and southern portions of the site. As stated in the flexible setback application, it is not the intent of the flexible setback to allow its reduction to influence the 20% open space requirement as stated in Section 60.35.15 of the Development Code. The intent of the flexible setback is to allow flexibility in the design of the site with respect to the structures, both existing and future development. It is not the intent to allow the flexible setback to be used as a mechanism to meet the 20% open space requirement by reducing the required setback standard. In addition, lot sizes for the project do not meet the minimum size requirements of the underlying R-7 zone of 7,000 sq-ft. However, the proposal will meet the criterion if the Conditional Use application is approved.

Staff further finds that the proposal meets the Site Development Requirement for setbacks within the R-7 zoning district for the perimeter of the parent parcel.

Therefore, staff find that the proposal meets the criterion for approval

4. ***The proposal will comply with the applicable policies of the Comprehensive Plan.***

Facts and Findings:

The Beaverton Comprehensive Plan (Plan) is not intended to be a site specific document. Therefore, the Planning Commission must determine whether a particular specific use request, such as approval of the PUD, would be applicable to the Comprehensive Plan. The following policies of the Beaverton Comprehensive Plan have been identified as being applicable to this Conditional Use Permit request.

Policies:

- 3.13.1a. Regulate residential development to provide for diverse housing needs by creating opportunities for single and multi-family development of various sizes, types and configurations.*
- 3.13.1.b Encourage a variety of housing types in residential areas, by permitting or conditionally permitting any housing type (one, two or more, family dwellings) within any zoning district so long as the underlying residential density of the zoning district is met. Accessory dwelling units shall not be considered in the calculation of the underlying housing density.*
- 3.13.1.c Require Planned Unit Development application procedures for projects proposing two or more families within the Low Density and Standard Density land use designations. Planned Unit Developments encourage flexibility in standards and provide a mechanism for staff to make adequate findings with respect to compatibility in size, scale, and dimension. Exceptions to this requirement are dwellings designed as primary units with an accessory dwelling unit, as specified in the Development Code.*
- 3.13.1.d Apply Residential Neighborhood designations (Low Density, Standard Density, Medium Density and High Density) consistent with the Metro 2040 Growth Concept Map and the City's housing target implementing strategy.*

Low Density	10,000 – 12,500
Standard Density	5,000 – 8,750
Medium Density	2,000 – 4,999
High Density	1,000 – 1,250

- 3.13.1.e Apply zoning districts as shown in subsection 3.14 Comprehensive Plan and Zoning District Matrix.*

The applicant is proposing a fifteen lot single family residential planned unit development. The applicant is meeting the above Comprehensive Plan Policies by developing single family units according to Standard Density land use designation standards. Therefore, staff find the policy is met.

- 3.13.1.f New Commercial zoning districts are not allowed within Residential Neighborhood Standard and Low Density land use designations. Existing properties with commercial zoning as shown on Figures III-2 through III-5 and listed by tax lot on said maps shall be allowed to continue in perpetuity. Expansion of the district is not allowed, but any use permitted within said district will be allowed subject to City approval through the procedures specified in the Development Code.*

The applicant is not proposing a zone change to a commercial use within the Residential Neighborhood Standard and Low Density land use designations. Therefore, staff find the policy is met.

- 3.13.1.g *Enhance the City's landscape through design measures considering the natural setting of the land and the character of existing residential neighborhoods.*
- 3.13.1.h *Foster innovation and variety in design to enhance the visual character of the City's landscape. Innovation in design can include designing infill structures to integrate into existing neighborhoods through compatible scale, similar design features, and similar setbacks.*

The applicant is proposing large landscape areas on both the northern and southern portion of the project site. Therefore, staff find the policy is met.

- 3.13.1.i *Residential development, in compliance with regional mandates, shall achieve at least 80% of the maximum density allowed in the respective zoning districts as applied through 3.14 Comprehensive Plan and Zoning District Matrix.*
- 3.13.3.a *Applying zoning districts as shown in Subsection 3.14 Comprehensive Plan and Zoning District Matrix to allow a variety of housing choices.*

The applicant states the matrix designates the R-7 zoning district for meeting the Standard Density Residential Development goal and that the proposed PUD will provide moderate sized lots for attached single family residences with some private open space. The R-7 zoning district allows PUD to be approved with a Conditional Use application to allow both variety of the housing type and the design of the subdivision. Therefore, staff find the policy is met.

- 4.2.1.1.a *Increase residential capacity in the City to substantially comply with requirements of Title 1 of the Metro Urban Growth Management Functional Plan.*

The applicant is proposing a fifteen lot residential PUD. This type of development will increase the housing density through in-fill development. Therefore, staff find the policy is met.

- 4.2.2.1.a *Allow development of a wide variety of housing types in the City.*

The applicant states the proposed PUD will provide fifteen detached single family dwellings and that these housing types will contribute quality, dwelling units to the City's housing stock. Therefore, staff find the policy is met.

- 5.4.1.b *On-site detention will be used as a storm water management tool to mitigate the impacts of increased storm water run-off associated with new land development.*
- 5.4.1.c *All new land development will be connected to a storm water drainage system. Each new development will be responsible for the construction or assurance of construction of their portion of the major storm water run-off facilities that are identified by the SWM program as being necessary to serve the new land development.*

The applicant has proposed the use of an underground storage facility to retain the increased run-off from the site after the project is complete. This facility and all other associated storm water run-off impacts will be captured and impacts be mitigated before being released into the city's storm drainage system. The Site Development Division will review a detailed set of plans and issue a Site Development Permit to ensure that the project will meet City standards and compliance with the storm water management program necessary to serve new land developments. Therefore, staff find the policy is met.

- 5.6.1.a *All new land development (residential subdivisions, and multiple family dwelling, industrial, and commercial developments) shall be connected to the City sewer system.*

This project has been designed to connect all proposed residential housing units with sewer a connection which shall be connects with the City sewer system. Therefore, staff find the policy is met.

- 5.7.1.f *The City shall notify the School District when considering Comprehensive Plan or land use regulation amendments that may significantly impact school capacity.*

The City of Beaverton has notified the Beaverton School District as the scope of the project as part of the review process. The Beaverton School District has indicated the project will cause a moderate impact at the elementary school level, and a negative impact at the middle and high school level.

- 6.2.1.a *Maintain the livability of Beaverton through proper location and design of transportation facilities.*
- 6.2.1.b *Consider noise attenuation in the design and redesign of arterial streets immediately adjacent to residential development.*
- 6.2.1.d *Protect neighborhoods from excessive through traffic and travel speeds while providing reasonable access to and from residential areas. Build streets to minimize speeding.*

The project entrance is located towards the east end Canby Street which is a dead-end street with emergency access available to Multnomah Boulevard. The proposal is designed with two open spaces located on either end of the lot with the residential lots located away from the road. Noise from Multnomah Boulevard will be less of an impact for residents since tract “C” buffers the residents from the roadway. The neighborhood will be protected from excessive through traffic since Kelsi Avenue (south of Multnomah Boulevard) does not currently go through at this time. The only through traffic design for the site will be emergency vehicles which will exit the development on to Multnomah Boulevard and emergency access easement. Therefore, staff find the policy is met.

- 6.2.2.a *Implement Beaverton’s public street standards that recognize the multi-purpose nature of the street right-of-way for a combination of utility, pedestrian, bicycle, transit, truck, and auto uses, and recognize that streets are important to community identity and provide a needed service.*

The applicant has applied for a street design modification through the City’s Engineering Department. The City Engineer has reviewed the proposal and has denied the request to deviate from City Street Standards, as shown in the Engineering Design Manual. As a condition of approval, the applicant will have to submit a revised set of plans to demonstrate that the proposal meets current City street standards. Upon review of the revised set of drawings staff can determine if the proposal implements Beaverton’s public street standards that recognize the multi-purpose nature of the street right-of-way for a combination of utility, pedestrian, bicycle, transit, truck, and auto uses, and recognize that streets are important to community identity and provide a needed service. Therefore, staff **does not** find the policy is met. However, the Planning Commission may find that the application does meet the comprehensive policy. If that is the case then staff find the policy is met upon the Planning Commission’s findings.

- 6.2.2.b *Develop and provide a safe, complete, attractive, efficient, and accessible system of pedestrian ways and bicycle ways, including bike lanes, shared roadways, multi-use paths, and sidewalks according to the pedestrian and bicycle system maps and the Development Code and Engineering Design Manual and Standard Drawings requirements.*
- 6.2.2.c *Provide connectivity to each area of the City for convenient multi-modal access. Ensure pedestrian, bicycle, transit, and vehicle access to schools, parks, employment and recreational areas, and destinations in station areas, regional and town centers by identifying and developing improvements that address connectivity needs.*
- 6.2.2.d *Develop neighborhood and local connections to provide adequate circulation into and out of neighborhoods.*

The project will provide a sidewalk connection, an amenity not currently found on the site. The sidewalk will connect pedestrians to both Canby Street and Multnomah Boulevard via the construction of Kelsi Avenue, thereby providing improved circulation for a segment of this local street. As SW Kelsi Avenue is, a local street and bicycle lanes are not being proposed. Bike access will be from the proposed roadway and is consistent with the street layout in the area.

The applicant proposes street lights on the extension of SW Kelsi Avenue as well as on the private street. The Facilities Review Committee has recommended a condition to address the lighting within the public right-of-way to meet City Standards. Staff find that by meeting the conditions of approval, the policies are met.

6.2.2.f Design streets to accommodate transit while minimizing impacts to traffic flow.

As the proposal is on a local street with no existing transit services, staff find the policy is not applicable.

6.2.3.b Design streets to serve anticipated function and intended uses as determined by the Comprehensive Plan.

SW Kelsi Avenue is a local street and is proposed to be continued as one. As local streets are to provide access to adjacent land, the function of the proposed roadway improvements meets the described function of a local street. The applicant has provided a plan for the future street extension upon redevelopment of the current non-conforming use located to the southeast of the subject property. Staff find the policy is met.

6.2.3.d Designate safe routes from residential areas to schools.

6.2.3.e Construct multi-use paths only where they can be developed with satisfactory design components that address safety, security, maintainability, and acceptable uses. Multi-use paths should converge at traffic-controlled intersections to provide for safe crossing, although they should be separate and distant from major streets for most of their length.

There are no designated pathways to local schools pr multi-use paths proposed and none required by the City. Therefore, staff find the policies are not applicable.

6.2.3.f Provide satisfactory levels of maintenance to the transportation system in order to preserve user safety, facility aesthetics, and the integrity of the

system as a whole.

- 6.2.3.g *Maintain access management standards for streets consistent with City, County, and State requirements to reduce conflicts among vehicles, trucks, bicycles, and pedestrians. Preserve the functional integrity of the motor vehicle system by limiting access per City standards.*

The applicant has been conditioned to dedicate a portion of the site to build Canby Street to local city standards. Also, the applicant has been conditioned to build Kelsi Avenue to local city standards. Both these street dedications will be conveyed to the City of Beaverton's Operations Department for regular street maintenance. By building to city standards conflicts that result from vehicles, trucks, bicycles, and pedestrians will be reduced. Therefore, staff find the policy is met.

- 6.2.3.h *Ensure that adequate access for emergency services vehicles is provided throughout the City.*

The development as proposed shows an emergency vehicle access easement which connects from Kelsi Avenue to Multnomah Boulevard. Therefore, staff find the policy is met.

FINDING: Therefore, staff find that by meeting the conditions of approval and by the findings of the Planning Commission, the proposal meets the criterion for approval.

5. ***The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.***

Facts and Findings:

The applicant states the application as proposal can reasonably accommodate a fifteen lot development. However, staff finds that it is not possible to determine if the size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal for a number of reasons. First is the open space element, as required in Chapter 60. The applicant has stated that the purpose of the flexible setback is to include that setback area as required open space. Staff has stated in criterion #3 that the area within the flexible setback can not be included in the required open space. Second, the applicant has requested a modification to the street design standard from the City Engineer. The City Engineer has denied that request and will therefore be required to construct Kelsi Avenue to City street standards. The current proposal shows a street which does not meet current street standards. Therefore, staff can not make positive findings that the man-made (street) features on the site can reasonably accommodate the proposal. Finally, the applicant has not demonstrated on the site plan that it can be properly maintained by the City of Beaverton's

Operation's Department. Staff has conveyed to the applicant that City street sweepers are unable to service the site as currently proposed. Staff has conditioned the application, if approved, to meet the Operations Department's street sweeper standards, however it is impossible to review since the final street design will change since the street design modification has been denied.

FINDING: Therefore, staff can not find that the proposal meets the criterion for approval.

- 6. *The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact on livability and appropriate development of properties in the surrounding area of the subject site.***

Facts and Findings:

Location: The subject site is located within the R-7 zoning district. To the east, of the subject site is the City of Portland. Aerial photographs show and site visits confirm that the properties to the west are residential housing units. The site to the southeast is a non-conforming use. The sites to the west are located within the City of Beaverton and are zoned R-7. These properties have residential housing units. In reviewing the impacts to the abutting parcels, staff finds that the current proposal being residential housing units will have minimal impact of the surrounding uses.

Size: The PUD allows modifications to the size of the lots, while requiring the proposed development to meet the density requirements of the zoning district. The applicant proposal requests a reduction in the lot size of the parcels ranging between 4,214 to 5,469 square feet. While the lot sizes are not consistent to the lots adjacent to the subject site or the underlying zoning district (R-7), the unique shape of the subject site, the construction of a private street and the open space requirements warrants the need for smaller lots. With the proposed setbacks for the individual lots, the building sizes of this development should be compatible to the range of building sizes found in the surrounding area.

Design: The design of the PUD has included common open space on the northern and southern boundary of the site. The private street proposed is a minimum of 20 feet in width providing adequate maneuvering area on the subject site. The private street will service lots 8, 9, and 10 as well as emergency vehicles entering Multnomah Boulevard.

To address the issue of noise and visual buffering of the non-conforming use located on the southeast corner of the site, staff has conditioned that the applicant plant a buffer / screening using evergreen vegetation which will grow to a minimum mature height of at least 20-feet. The applicant has proposed an extensive vegetation plan for the common open space areas, specifically at the southern property line (tract "C") of the subject site. The proposal includes a variety of plant material to help

screen the future residents from Multnomah Boulevard. The applicant also states that tract “A” will be landscaped with trees and shrubs to attract birds and butterflies. Please refer to the preliminary landscape plan (sheet 2A) of the plan set for specific details on plant type and location.

Functional Characteristics: The applicant’s proposal is utilizing two areas for the proposed open spaces, Tracts A and C. While Tract C provides active recreational use with open areas, Tract A provides a more passive use with limited access to the area. Tract A provides some aesthetic value with the proposed landscaping. The applicant proposes special setbacks to reduce the rear and side yard setback of the parent parcel which may allows the development to meet the common open space requirements.

While the reduction in the parent parcel setback for the open space areas will not create adverse impacts to the abutting residential homes, staff finds that the reductions should not allow the additional area within the tract to be counted in the 20% open space requirement. As stated in Section 60.35.15.2 of the Development Code states land set aside for setbacks and buffer areas are not to be counted within the 20% open space requirement. As stated by the applicant and staff, the unique shape of the site warrants certain reductions in the site development requirements. However, staff finds that the reduction is not intended by the Development Code to allow the additional area within the tract to be counted in the 20% open space requirement.

FINDING: Therefore, staff can not find that the proposal meets the criterion for approval.

7. *Lessening the Site Development Requirements results in benefits to the site, building, and structural design or preservation of natural features that could otherwise not be achieved.*

Facts and Findings:

The applicant states that due to the shape of the lot only 4 to 6 lots could be platted using the standard subdivision requirements. By using the PUD process, the applicant will be able to meet housing density requirements however, it is not possible to implement the proposed development plan without lessening the Site Development Requirements and that the PUD design benefits the site by allowing it to be developed in a feasible manner that could otherwise not be achieved. Staff concurs that the unique shape of the site warrants deviation of the Site Development Requirements. The proposed development allows building design to be compatible to the surrounding area as well as provide amenities to the development such as active open space areas.

FINDING: Therefore, staff find that the proposal meets the criterion for approval.

8. *Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.*

Facts and Findings:

The intent of this criterion is to ensure the proposed project submits all the proper development applications on the proper sequence. The applicant has submitted three additional applications; Flexible Setback FS2004-0017, Land Division LD2004-0030 and Tree Plan TP2004-0018. The Planning Commission will review all four applications at one public hearing. All documentation and applications have been submitted to the City of Beaverton in the proper sequence.

Therefore, staff find that by meeting the conditions of approval, the proposal meets the criterion for approval.

SUMMARY OF FINDINGS: Staff find that the request for Conditional Use approval for the PUD is not supported within the approval criteria findings for Chapter 40, Section 15.15.5.C. Staff recommend that the Commission review the proposal and deny the application based on the staff report and testimony during the public hearing.

The Committee met on December 8, 2004, and have provided findings, and recommended conditions of approval to meet the necessary technical criteria identified in Section 40.03 of the Development Code. Based on the facts and findings presented, the Director concludes that the proposal, CU2004-0021 Garden Grove Planned Unit Development, does not meet the criteria.

RECOMMENDATION

Staff recommends **DENIAL** of **CU2004-0021 (Garden Grove Planned Unit Development)** based on Code Conformance of Development Code Section 40.15.15.5.

However, if the Planning Commission finds that the Conditional Use application does meet the approval criteria staff recommends **APPROVAL** of **CU2004-0021 (Garden Grove Planned Unit Development)**, subject to the applicable conditions identified in Attachment F.